



### **TERMS OF AGREEMENT**

3. The term of this Agreement (the "Term") will begin on the date of the Agreement and will remain in full force and effect indefinitely until terminated as provided by this Agreement.
4. If the Client wishes to terminate this Agreement, that Party will be required to provide five days' (5) written notice to the Contractor.
5. If the Client breaches a material provision under this Agreement, the Contractor may terminate this Agreement immediately without reimbursement.
6. This Agreement may be terminated at any time by mutual agreement of the Parties.
7. Except as otherwise provided in this Agreement, the obligations of the Contractor will end upon the termination of this Agreement.

### **PERFORMANCE**

8. The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

### **CURRENCY**

9. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in USD (US Dollars.)

### **COMPENSATION**

10. The contractor will share the Client for the Services at the rate of \$159.00 (plus tax) per month (the "Compensation").
11. A deposit of \$500.00 (the "Deposit") is payable by the Client upon execution of this Agreement. This amount includes a set-up fee of \$341 and the first month subscription to the dialer.
12. The Compensation *subscription payment* will be automatically withdrawn using the Client's original form of payment via a Third-Party processing platform.
13. The Compensation is due on the one-month anniversary date of the initial subscription deposit.
14. The Compensation as stated in this Agreement does not include sales tax, or other applicable duties as may be required by law. Any sales tax and duties required by law will be charged to the Client in addition to the Compensation.
15. The Contractor will not be reimbursed for any expenses incurred in connection with providing the Services of this Agreement.

### **CONFIDENTIALITY**

16. Confidential information (the "Confidential Information") refers to data or information relating to the business of the Client which would reasonably be considered to be proprietary to the Client including, but not limited to, accounting records, business processes, and client records and that is not generally known in the industry of the Client and where the release of that Confidential Information could reasonably be expected to cause harm to the Client.
17. The Contractor agree that they will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which the Contractor has obtained, except as authorized by the Client or as required by law. The obligations of confidentiality will apply during the Term and will survive indefinitely upon termination of this Agreement.
18. All written and oral information and material disclosed or provided by the Client to the Contractor under this Agreement is Confidential Information regardless of whether it was provided before or after the date of this Agreement or how it was provided to the Contractor.

### **OWNERSHIP OF INTELLECTUAL PROPERTY**

19. All intellectual property and related material, including any trade secrets, moral rights, goodwill, relevant registrations or applications for registration, and rights in any patent, copyright, trademark, trade dress, industrial design, and trade name (the "Intellectual Property") that is developed or produced under this Agreement, is a "work made for hire" and will be the sole property of the Contractor. The use of the Intellectual Property by the Client will not be restricted in any manner during the Term of Service.
20. The Client may not use the Intellectual Property for any purpose other than that contracted for in this Agreement except with the written consent of the Contractor. The Client will be responsible for any and all damages resulting from the unauthorized use of the Intellectual Property.

### **RETURN OF PROPERTY**

21. Upon the expiration or termination of this Agreement, the Contractor will deactivate the cloud-based software account and delete all Confidential Information which is property of the Client.

### **CAPACITY**

22. In providing the Services under this Agreement, it is expressly agreed that the Contractor is acting as an independent third-party Contractor and not as an employee. The Contractor and the Client acknowledge that is Agreement does not create a partnership or joint venture between them and is exclusively a contract of service. The Client is not required to pay, or make any contributions to any social security, local, state, or federal tax, unemployment compensation, workers' compensation, insurance premium, profit-sharing, pension or any other employee benefit for the Contractor during the Term. The Contractor is responsible for paying, and complying with reporting requirements for, all local, state, and federal taxes related to payments made to the Contractor under this Agreement.

### **RIGHTS OF SUBSTITUTION**

23. Except as otherwise provided in this Agreement, the Contractor may, at the Contractor's absolute discretion, engage a third-party sub-contractor to perform some of all the obligations of the Contractor under the Agreement. The Client may in turn hire or engage any third parties to assist with the provision of the Services.
24. In the event that the Contractor or Client hires a sub-contractor:
  - a. The Contractor will pay the sub-contractor for its services and the Compensation will remain payable by the Client to the Contractor.
  - b. The Client will pay the sub-contractor for its services and the Compensation will remain payable by the Client to the Contractor.

### **AUTONOMY**

25. Except as otherwise provided in this Agreement, the Contractor will have full control over working time, methods, and decision making in relation to provisions of the Services in accordance with the Agreement. The Contractor will work autonomously and not at the direction of the Client. However, the Contractor will be responsive to the reasonable needs, requests, and concerns of the Client.

**EQUIPMENT**

26. The Parties will provide at the Party's own expense, all tools, equipment, supplies, and any other items or parts necessary to fully carry out the Services offered and provided.

**NO EXCLUSIVITY**

27. The Parties acknowledge that this Agreement is non-exclusive and that either Party will be free, during and after the Term, to engage or contract with third parties for the provision of services similar to the Services.

**NOTICE**

28. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:

- Support@SmartCallsDialer.com
- Hector@SmartCalls.org
- 13000 Vista del Norte #111, San Antonio, Texas 78216

or to such other address as either party may from time to time notify the other and will be deemed to be properly delivered (a) immediately upon being served personally, (b) two days after being deposited with the postal service if served by registered mail, or (c) the following day after being deposited with an overnight courier.

**INDEMNIFICATION**

29. Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable law, each Party agrees to indemnify and hold harmless the other Party, and its respective directors, affiliates, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying Party, its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Agreement. This indemnification will survive the termination of this Agreement.

**MODIFICATION OF AGREEMENT**

30. Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party of an authorized representative of each Party.

**TIME OF THE ESSENCE**

31. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

**ASSIGNMENT**

32. The Contractor shall not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this agreement without prior consent from the Client.

**ENTIRE AGREEMENT**

33. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

**ENUREMENT**

34. This Agreement will endure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

**TITLES/HEADINGS**

35. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

**GENDER**

36. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

**GOVERNING LAW**

37. This agreement will be governed by and construed in accordance with the laws of the State of Texas, United States.

**SEVERABILITY**

38. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of the Agreement.

**WAIVER**

39. The waiver by either Party of a breach, default, delay, or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

**AGREEMENT ACKNOWLEDGMENT**

“I have read and agree to the month-month service agreement between the Contractor **SmartCalls™** and **myself**, the Client.”

Client

SmartCalls™ Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date